

# Agenda

## Town of Seekonk, MA Planning Board

12/11/12

7:00 PM

Seekonk Town Hall  
BOS Meeting Room

### Type of meeting:

Planning Board Regular Meeting, Public Hearing

**Agenda topics** – More information on each item can be found on our website – [www.seekonk-ma.gov](http://www.seekonk-ma.gov) under Departments>Planning>Agenda Items

7:00 PM

### Public Hearing

Definitive Subdivision: Pine Hill Estates - Plat 24,  
Lots 73 & 394 - 524 Newman Ave

Applicant: Najas Realty,  
LLC

Approval Not Required Plan: Plat 17, Lot 79 – Off  
Jacob St and Taunton Ave

Applicant: Palmer River  
Development Co., LLC

Preliminary Subdivision: Jacob Hill Estates - Plat 17,  
Lot 79 – Off Jacob St and Taunton Ave

Applicant: Palmer River  
Development Co., LLC

Discussion: Zoning Bylaw Update – Audit

Planning Board

Discussion: Accessory Apartment Zoning Bylaw

Planning Board

Correspondence:

Approval of Minutes: 10/9/12

Adjournment



**Planning Board**  
100 PECK STREET  
SEEKONK, MASSACHUSETTS 02771  
1-508-336-2960

To: The Planning Board  
From: John P. Hansen Jr., AICP, Town Planner  
Date: December 5, 2012

**DEFINITIVE PLAN REVIEW**  
**Pine Hill Estates – Plat 24, Lot(s) 73 & 394 (524 Newman Ave.)**

**Summary:** The applicant has submitted an Application for Approval of Definitive Plan for a Conservation Subdivision.

**Findings of Fact:**

**Existing Conditions**

- Lots 73 & 294 contain 10.93 acres of land with an existing dwelling and a wooded area to the rear. The property is in an R-2 Zoning District.

**Proposal:**

- Create 10 new house lots, all >15K sq. ft., on a  $\pm 500'$  public road ending in a cul-de-sac (Jacoby Way).
- Individual septic systems and public water will service the lots.
- Infiltration pond proposed for the drainage system.
- Percentage of disturbed areas (areas not left in natural state) is 31.5% (25% max); Open space areas will equal 57.81%, which is greater than the 40% minimum required. Wetland percentage of open space does not exceed wetland percentage of site.

**Waivers:**

- Section 8.7-Sidewalks on one side (both sides required) – Creates less impervious surface
- Section 7.4.1 – 20' drainage easement (30' required) – Due to smaller lot size/dimensional requirements within Conservation Subdivision, 30' not attainable
- Section 7.4.4 – Easement of 20' in width at dead end streets – No developable land behind subject property
- Section 7.2.1.5 – Minimum center line radius of 240' (250' required) - Cul-de-sac servicing 10 lots would have limited traffic amounts/speed

**Proposed Conditions:**

All items of the Board's consultant, CEI, have been adequately addressed except for the disturbed area calculation, which will require a variance from the ZBA. If the variance is not granted, a conventional subdivision, with no protected open space or restrictions on disturbed areas could be proposed. In addition, it appears that the regulation of requiring no more than 25% disturbed areas might not be feasible for subdivisions of all sizes and should be

examined further as part of the comprehensive zoning bylaw update. Therefore, the following conditions of approval are offered:

1. Appropriate documentation shall be submitted for the establishment of a homeowner's association, deed restrictions on each lot indicating limits of disturbed areas, which shall be delineated by a split rail fence and stated in said deed restriction, associated drainage easements, driveway and yard easement for driveway and timber wall, and an open space restriction on the open space land. These documents shall be submitted to the Planning Board prior to endorsement and recorded along with the Subdivision Plans.
2. Prior to issuance of a building permit for each lot, the lot owner/developer shall submit a lot site plan and supporting information to the Planning Board documenting the following:
  - a. The grading of the lot is consistent with the impervious surface coverage and the drainage patterns depicted on the approved Subdivision Plans.
  - b. The development of the individual lots will implement and maintain erosion and sediment control measures prior to and during construction as stipulated on the approved Subdivision Plans. The lot plan should illustrate the placement and details of these measures.
3. Prior to issuance of a building permit for lot 7, Board of Health approval shall be required indicating acceptable soils and groundwater conditions have been documented to support a soil absorption system and perc tests have been performed.
4. Prior to construction of the subdivision, additional soils data shall be obtained near the center and southern end of the infiltration basin to confirm soils and groundwater conditions are suitable for this facility. The Health Agent shall witness and approve of the additional soils data.
5. Prior to construction, the applicant shall provide copies to the Planning Board of the NOI filed for coverage under the EPA NPDES General Permit for construction activity and the SWPPP required under that permit.
6. Prior to placing the stormwater system into operation, a signed Illicit Discharge Compliance Statement must be provided to the Planning Board.
7. A variance from the ZBA would be required to allow for the disturbance of 31.5% of the subject property. If said variance is not granted, then an amended plan shall be submitted to the Planning Board indicating an alternative design.



October 16, 2012

Mr. Robert Bernardo, Superintendent  
Seekonk Water District  
P.O. Box 97  
Seekonk, MA 02771

**RE: Definitive Subdivision Plan for Pine Hill Estates**

Dear Mr. Bernardo:

In response to your request, we have reviewed the definitive subdivision plan of Pine Hill Estates, dated August 30, 2012, prepared by Insite Engineering Services, LLC. The proposed 10 acre site is a 10 lot subdivision located on Newman Avenue, near Amelian Court. The site is located within the Town's Groundwater Aquifer Protection Overlay District and the Water District's Zone II for the Newman Wells (GP1, GP2, GP3 and GP4).

The potential development of this property has caused a level of concern by the District due to the proximity of this site to the Newman Avenue public water supply wells. As you are aware, the Newman Avenue wells provide over 80 percent of the District's water supply to the Town of Seekonk. The distance to the closest well, GP4, is approximately 1,150 feet from the subdivision. The other wells (GP1, GP2 & GP3) are also all within 1,500 feet of the subdivision.

Current nitrate levels at GP4 have averaged 3.22 mg/L since 2000 (maximum contaminant level is 10 mg/L). These concentrations are a direct result of the Dr. Kevin M. Hurley Middle School septic system, which is approximately 1,175 feet from GP4. We are severely concerned that additional nitrogen loading into the aquifer at this close proximity would result in higher nitrate concentrations at GP4 and the other Newman Wells. If the subdivision were approved, and nitrate levels increase above 5 mg/L, the District would be subject to MassDEP regulations for Water Supply Protection (310 CMR 22.21 2.d), which require a public water supplier to prepare a nitrate management plan if nitrate levels exceed 5 mg/L during any redelineation of the Zone II. Redelineation of the Zone II would occur when future replacement wells for the Newman Wells are installed.

In May 2010, the Silent Spring Institute (SSI) issued a water study report titled "Emerging Contaminants in Cape Cod Drinking Water". The study focused on the impact septic systems have on groundwater quality. As part of the study, SSI tested untreated water from 20 public water supply wells throughout Barnstable County. The report found nitrates as an indicator for other contaminants within wastewater from septic systems, namely personal care products, pharmaceuticals, hormones and herbicides. Conclusions to the report recommend better protection of public water supply wells and extension of public sewer systems to areas around public water supply wells. Given the absence of public sewers in Seekonk, enforcement of zoning restrictions and land acquisition to protect open space is critical to the District's public water supply protection.

Please feel free to contact me at (617) 657-0253 or [rjt@envpartners.com](mailto:rjt@envpartners.com) with any questions or concerns.

Very Truly Yours,  
Environmental Partners Group, Inc.



Ryan J. Trahan, P.E.  
Project Manager

Hyannis:

297 North Street, Suite 311, Hyannis, MA 02601  
TL 508.568.5103 • FX 508.568.5125

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18 Commerce Way, Suite 2000, Woburn, MA 01801  
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# Seekonk Water District

50 Water Lane, P.O. Box 97, Seekonk, Massachusetts 02771

Tel: (508) 761-8170 Fax: (508) 761-9928

October 4, 2012

Town of Seekonk  
Planning Board

**RE: Proposed Definitive Subdivision Plan for Pine Hill Estates**

Dear Planning Board Members:

The Seekonk Water District (SWD) has reviewed the above referenced plan and has the following comments:

- 1) The site is located within the Town's Groundwater Aquifer Protection District and the District's Zone II (primary recharge area for the aquifer) for the entire Newman Wellfield (Gravel Packed Wells - GP 1, GP 2, GP 3 and GP 4).
- 2) The District cannot overstate the importance of the Newman Wellfield to the Town's water supply. In 2011, the Newman Wellfield provided over 358 million gallons or more than 81% of the Town's drinking water.
- 3) Due to the projects' proximity to the crucial Newman Avenue public water supply wells and the potential for degradation of the Town's water supply the District **does not support this proposed development.**
- 4) This proposed subdivision presents an unacceptable public health risk to the community's water supply as nitrate levels are already a concern in well GP 4 (one of the District's most productive wells) due to the proximity of the Dr. Kevin M. Hurley Middle School septic system.
- 5) This proposal appears to contradict the stated ideals of the Town's recently completed Master Plan, particularly with regard to the need to take a proactive versus reactive approach to planning and the declared objective of maintaining Seekonk's critical environmental resources.
- 6) In closing, the Planning Board like the Water District and other Town boards has a responsibility to protect the Common Good. One individual's right to develop a property cannot come at the expense of the community's collective right to access a safe, reliable water supply.

Please contact me with any questions or concerns.

Sincerely,

Robert Bernardo

Superintendent

# MEMORANDUM

Date: November 28, 2012

From: Beth Hallal, R.S.   
Health Agent

To: Planning Board

Subj: **REVIEW OF THE PROPOSED DEFINITIVE PLAN OF SUBDIVISION FOR  
PINE HILL ESTATES**

On November 14, 2012 the Board of Health review and approved the definitive plan of subdivision for Pine Hill Estates. The Board of Health also approved the nitrogen aggregate loading for this subdivision. The nitrogen aggregate loading plan requires the approval of the Department of Environmental Protection.

As per the Rules and Regulations governing the Subdivision of Land in Seekonk, Mass, the Board of Health agrees with your by-law 8.7.1 sidewalks of not less than five (5) feet in width shall be constructed on both sides of the street in conformity with the specifications of the Town. To promote the residents and children of this neighborhood to walk and ride their bikes in a safe environment, the Board of Health would also like to see sidewalks in the development.

The Board of Health requests that you do not grant a waiver from installing sidewalks.

If you have any questions please contact me in the Board of Health Office.

Cc: Board of Health  
Seekonk Water District  
File



**Planning Board**  
100 PECK STREET  
SEEKONK, MASSACHUSETTS 02771  
1-508-336-2960

To: The Planning Board  
From: John P. Hansen Jr., AICP, Town Planner  
Date: November 28, 2012

**PRELIMINARY PLAN REVIEW**  
**Jacob Hill Estates – Plat 17, Lot(s) 79 – Off of Taunton Ave & Jacob St**

**Summary:** The applicant has submitted an Application for Approval of Preliminary Plan for a Conservation Subdivision.

**Findings of Fact:**

**Existing Conditions**

- Vacant wooded 16.9 acre lot zoned R-2/Mixed Use.

**Proposal:**

- Create 11 new house lots, all >15K sq. ft., on a ±859' public road ending in a cul-de-sac (Palmer River Rd). The yield plan indicates 9 developable lots are possible. The new incentive zoning provision is to be utilized here, which will designate one lot as affordable and one additional market rate lot will be granted as a density bonus for providing said affordable lot.
- Individual septic systems and public water will service the lots.
- Open space areas will equal 40%, (40% minimum required). Wetland percentage of open space does not exceed wetland percentage of site.

**Recommendations:**

This office recommends approval of this Preliminary Plan with the following condition:


- No lowest floor elevations (lfe) are shown. Under section 4.4.2 of the Subdivision Regulations, the lfe of the proposed buildings shall be at least two (2) feet above the maximum groundwater elevation. This shall be shown on the Definitive Plan along with the appropriate groundwater and soils data as per section 4.3 & 4.4.







## MEMORANDUM

**To:** Seekonk Planning Board  
**From:** Bernadette DeBlander, Conservation Agent   
**Subject:** Jacob Hill Estates  
**Date:** November 27, 2012  
**CC:** Conservation Commission

The approval of the wetland delineation (wetland flags 1 through 35) as proposed on the plans titled Preliminary 11-Lot Subdivision Plan, Jacob Street, Assessors Map 17 Part of Lot 79, Seekonk, MA, sheets 1 through 5 dated November 26, 2012 and prepared by Thompson Farland Professional Engineers is on the agenda for the December 10, 2012 Conservation Commission meeting. The "approximate wetland line" (taken from GIS) shown on the Existing Conditions plan sheet 2 of 5 has not been reviewed by the Conservation Commission and therefore may not be accurate.



**Seekonk School Department  
Administrative Offices  
25 Water Lane ♦ Seekonk, MA ♦ 02771-4615  
(508) 399-5106 ♦ Fax (508) 399-5128**

Arlene F. Bosco  
*Interim Superintendent of  
Schools*

Barbara Hamel  
*Finance Administrator  
Assistant Administrator in  
Charge*

Kristin Dykstra  
*Director of Curriculum  
and Instruction*

Susan Doe  
*Interim Director of  
Special Education*

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**SCHOOL COMMITTEE MEMBERS**

**Mitchell R. Vieira**  
*Chairman*

**David J. Quinn**  
*Vice-Chairman*

**Brian L. Freitas**  
*Secretary*

**Fran Creamer**  
*Member*

**John P. Bilodeau**  
*Member*

November 28, 2012

Dear Members of the Planning Board,

Regarding the Jacob Hills Estates development, I have a concern about the placement of any entrance/egress placed on Taunton Avenue to access any houses that are built there. I would not place any bus stop along that stretch of road. Students who live in the three houses already there have to walk around the corner to the bus stop at Jacob St. & Ledge Rd.

I also have a concern about the entrance of Palmer River Road on Jacob St. While the distance meets the criteria below (I think the length after the curve is @402 feet, but there are bushes there that restrict visibility), I worry about vehicles coming around that curve and rear ending a bus. People are always flying down around that curve. I'm not too crazy about sending a bus up Palmer River Rd. either because the visibility exiting the street isn't that great there. It's one thing for a 8,000 pound car to scoot out, but a 35,000 pound bus can't scoot.

The following is the criteria recommended for placing bus stops. .

**"A concerted effort to provide at least 500' visibility in both directions on high speed roads (i.e., 35 mph+), and at least 300' visibility on lower speed roads, is made when establishing bus stops."**

All in all, I do see potential problems for buses being able to access students in that neighborhood, unless they are required to walk to the current bus stop. Thank you for including me in this matter.

Sincerely,

Betsy Frey, Operations Coordinator/Administrative Assistant

Cc: Arlene Bosco, Interim Superintendent of Schools  
Barbara Hamel, Finance Administrator



**Planning Board**  
100 PECK STREET  
SEEKONK, MASSACHUSETTS 02771  
1-508-336-2960

To: The Planning Board  
From: John P. Hansen Jr., AICP, Town Planner  
Date: November 26, 2012

**APPROVAL NOT REQUIRED REVIEW (ANR)**  
**Palmer River Development Co., LLC – Plat 17, Lot(s) 79 – Off of Taunton Ave & Jacob St**

**Summary:** The applicant has submitted a request for an Endorsement of a Plan Believed Not to Require Approval.

**Findings of Fact:**

**Existing Conditions**

- Vacant wooded 16.9 acre lots zoned R-2/Mixed Use.

**Proposed Lot Amendments:**

- Divide off 4 lots on Taunton Ave (an accepted way), three of which have adequate frontage (120' required), leaving remaining land with adequate frontage. Parcel D, does not have adequate frontage and is labeled unbuildable. Adequate access to the lots exist.

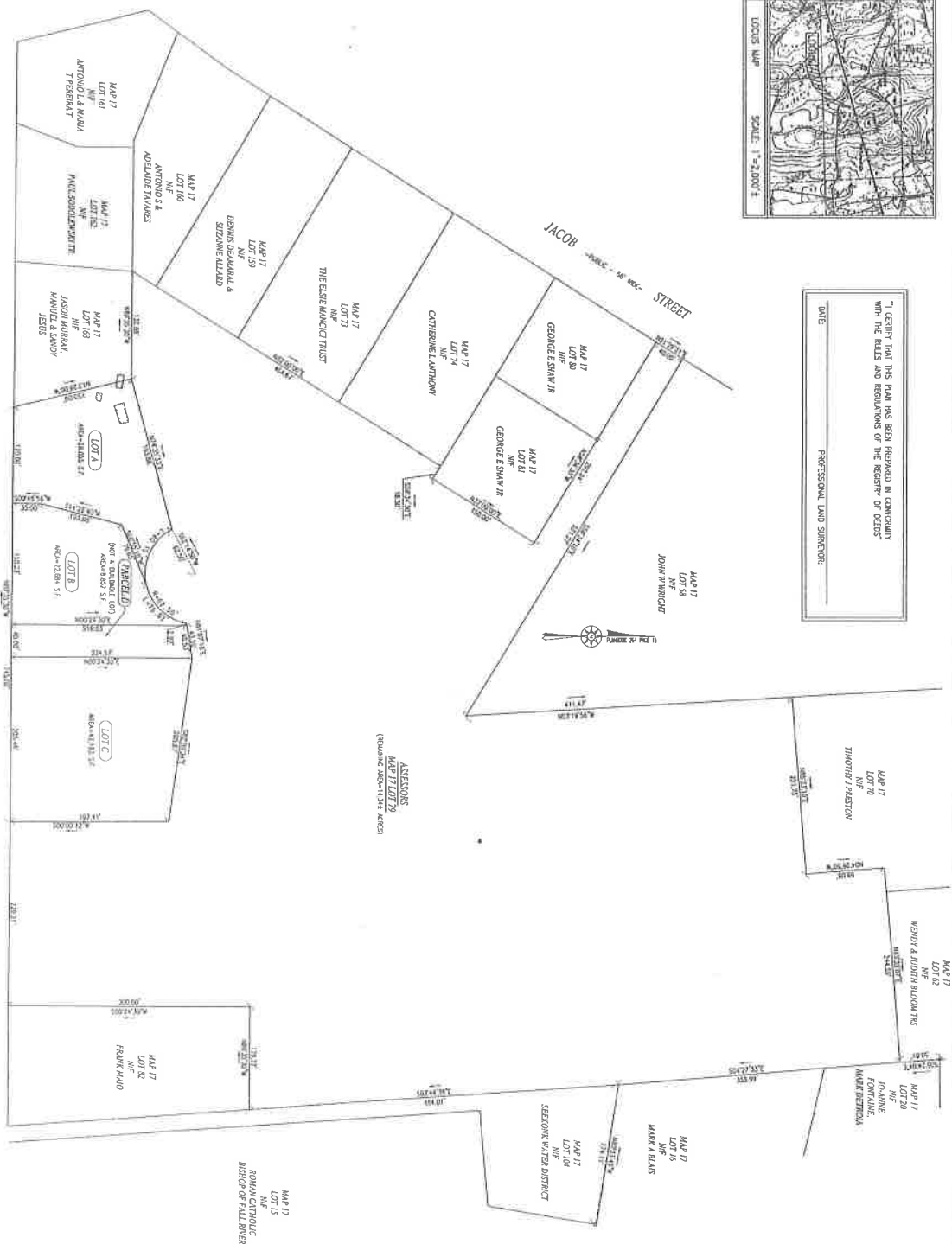
**Recommendation:**

Staff recommends approval of this application as it meets the exemption clause within the definition of a subdivision in the Rules and Regulations Governing the Subdivision of Land for changing the size of lots in such a manner so as to not leave any lot affected without the proper frontage.



I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS

DATE: \_\_\_\_\_ PROFESSIONAL LAND SURVEYOR



NOTES:  
1. PROPERTY LINE SURVEY PREPARED BY THOMPSON FARLAND, INC. IN OCTOBER 2012.  
2. THE PURPOSE OF THIS PLAN IS TO CREATE LOTS A, B, C, AND PARCEL D.



RECORDS DIVISION  
REGISTERED MAP 17 LOT 79  
1960 TALL RIVER AVENUE  
DEED BOOK 10558 PAGE 278

ZONING DATA	
DISTRICT: WED USE ZONE/RESIDENTIAL-2	
MINIMUM REQUIREMENTS:	
LOT AREA	22,500 S.F.
LOT FRONTAGE	120 FT
SETBACK	35 FT
LOT WIDTH	50 FT

APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

TOWN OF SEEKONK PLANNING BOARD

DATE: \_\_\_\_\_

FOR REGISTRY USE ONLY

APPROVAL NOT REQUIRED  
TAUNTON AVENUE  
ASSESSORS MAP 17 LOT 79  
SEEKONK, MASSACHUSETTS

PREPARED BY: MATTHEW ANTONIO  
FOR: 35 COUNTRY ROAD  
SMAUGSETA, MA 02777

DRAWN BY: AEC  
DESIGNED BY: AEC  
CHECKED BY: CMF



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REVISIONS

SHEET 1 OF 1

# Horsley Witten Group

## Sustainable Environmental Solutions

90 Route 6A • Sandwich, MA • 02563  
Tel: 508-833-6600 • Fax: 508-833-3150 • [www.horsleywitten.com](http://www.horsleywitten.com)



## MEMORANDUM

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TO: John Hansen, AICP, Town of Seekonk  
FROM: Nathan Kelly, AICP; Katie Resnick, AICP  
DATE: December 4, 2012  
RE: DRAFT 1—Zoning By-Law Audit

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This memorandum summarizes the first phase of this project: the Zoning Audit. It provides a review of the Town of Seekonk's Zoning By-Laws relative to the structure and format of the document. Attention was paid to the consistency in numbering, grammar, and terminology throughout the document as well as the degree to which the By-Laws are user-friendly by developers, the general public and government staff. In addition, we looked at the adaptability of the current Zoning By-Laws to amendments in the future. Finally, Horsley Witten Group (HW) has provided the first draft of a "Running List" of changes that can be addressed during our project or beyond. This audit is consistent with the 2012 Master Plan and begins the process of addressing many action items contained therein.

This zoning audit and the recommended "re-organization" is a necessary first step for this project. In addition to improving the existing By-Laws, once the Zoning By-Laws have been re-organized, amending the content, which is proposed in later phases of the project, will be more efficient.

This audit will serve to identify a series of potential amendments to the By-Laws including, but not limited to:

- Minor editorial changes from typographical errors or confusing language;
- Edits to numbering conventions within and among sections for consistency;
- Moving, combining, and parsing of sections to create a more ordered and user-friendly document;
- Additional definitions for clarity; and
- Moving language between the Zoning By-Laws, the General By-Laws, and the Subdivision Regulations to better reflect the statutory restrictions and best practices.

### Background

Although Seekonk's newly updated Master Plan is grounded in smart growth principles, its Zoning By-laws still generally reflect a standard land-use classification system that emphasizes separation of uses into single districts with slightly different characteristics and requirements. The addition of numerous overlay and special districts over time has added some flexibility to

the by-laws, but has also made its administration more complex. The text-based format of the existing Zoning By-Law relies heavily on redundant lists of permitted and conditional uses and standards. Coordination and cross-referencing to other land use related by-laws and regulations are largely absent. Notably, the by-laws as they currently stand would unintentionally create hurdles for redeveloping in some of the Town's most valued places. Given the direction within the new Master Plan, the zoning update is especially timely. To be effective, the update effort needs to build upon the community interest generated by the plan, and clearly link the plan's policies to changes in the by-laws. The Zoning By-law that will emerge will be internally consistent, logical, and readily understandable by all audiences in both print- and web-based formats.

### Euclidean Zoning

Seekonk's existing Zoning By-law is considered a conventional, or "Euclidean," zoning code. Euclidean zoning regulates development through land use classifications and dimensional standards and tends to separate different categories of use. Typical classifications are single-family residential, multi-family residential, commercial, institutional, industrial and recreational. Each land use must comply with dimensional standards that regulate the height, bulk and area of structures. These dimensional standards typically take the form of setbacks, side yards, height limits, minimum lot sizes, and lot coverage limits. Also, requirements for open space, lot coverage, parking and other similar standards are generally regulate "lot by lot", making it difficult to coordinate development from one parcel to another and more efficiently use land.

The traditional planning goals associated with Euclidean zoning are providing for orderly growth, preventing overcrowding of land and people, alleviating congestion, and separating incompatible uses (such as insuring that a noisy factory cannot be built near a residential neighborhood) by separating them into different zoning districts.

### Form-based Zoning

An alternative approach to Euclidean zoning is a form-based code. A form-based code places more emphasis on regulating the form, design and scale of buildings and their placement along and within public spaces (such as sidewalks, street trees and street furniture) as opposed to regulating by land use category. Some of the planning goals of form-based codes include curbing sprawl, promoting pedestrian safety, and preserving the fabric of historic neighborhoods. However, depending upon the quality of the code and its diagrams, form-based codes can be difficult to interpret and administer.

### Performance Zoning

A key goal of zoning codes is to limit conflicting and incompatible uses. Traditional Euclidean zoning does this by regulating land use and bulk. Performance zoning, however, regulates the effects or impact of land uses through performance standards. Performance standards usually focus on impacts like traffic flow, density, noise and access to light and air. In these models, developers can build almost any building that meets the performance standards for that district. Therefore, performance zoning allows for a great deal of flexibility. This level of flexibility makes it a very useful tool, but can also make it difficult to administer.

### Hybrid Zoning

A hybrid zoning code takes advantage of the different types of zoning (Euclidean, Form-based, and Performance) to provide a code that is both flexible and less complicated to administer. For example, the base code may be Euclidean in nature, but some of the districts (e.g., village zoning districts) may incorporate form-based elements. Another example may relate to the number of uses that are allowed. Where traditional Euclidean models often have voluminous and detailed use tables, the hybrid zoning code may have a simpler list of uses that relies more heavily on performance standards to ensure that the broad uses meet the goals of each district.

### **Document Structure - Findings and Recommendations**

Our comprehensive review of the Town's Zoning By-laws uncovered a number of findings and recommendations. In general, we recommend that Seekonk reorganize its Zoning By-laws in a way that is as logical as possible for its varied audience and amenable to future amendments. The Zoning By-laws should also be reorganized in a way that provides a platform for transitioning to a hybrid zoning code that allows for some performance-based and form-based elements. The following includes a summary of the main findings and recommendations related to the structure and format of the Zoning By-laws, in no particular order.

- There are a large number of major sections (25) and the order and hierarchy of sections and subsections at times “bounces around” in a way that can cause confusion.
  - We recommend trying to reduce the number of major standardized sections with subsections following a pre-determined categorization and order.
  - We recommend careful consideration of how sections may be amended in the future and making necessary adjustments to allow for logical placement of amendments (e.g., Provide subsections for “base zoning districts” and “overlay zoning districts” so that when new zoning districts are adopted or modified the language and potential subsections can be incorporated within each of these categories.)
- Although the Table of Contents aids in finding particular sections and subsections, some provisions can still be hard to find if the reader is unsure within which section it would be found.
  - We recommend incorporating an index at the end of the document.
- There are inconsistent numbering systems among different sections and subsections.
  - We recommend that one conventional pre-determined numbering system is used throughout the document for all sections and subsections.
- Definitions are sometimes provided within Section 2. Definitions, and other times provided within separate subsections of other sections.
  - We recommend that all definitions are moved to Section 2. Definitions.
- Procedures and requirements for Site Plan Review and Special Permits are provided in their own distinct sections (Section 10 and Section 11 respectively); however, in some cases specific uses or districts have their own Site Plan Review or Special Permit



procedures, which are sometimes provided in Section 10 and/or Section 11 (e.g., Luther's Corners Village District) and other times provided in the uses' or districts' respective sections (e.g., Solar Photovoltaic Facilities).

- We recommend that unique Site Plan Review and Special Permit procedures for individual uses be incorporated into the section for that use; however appropriate references to the general Site Plan Review and/or Special Permit provisions can be provided wherever applicable. Procedures for Site Plan Review could also be moved to the Planning Board Regulations.
- Use regulations are provided in narrative format for each district individually, which can make it cumbersome for a developer that is looking within the Town as a whole to develop a particular use. In addition, some districts (e.g., Industrial) include both permitted and prohibited uses. This can cause confusion when a use is not included within either section.
  - We recommend that a use table be created either instead of, or in addition to, the narrative use regulations. The table would be a "one-stop shop" to clearly depict which uses are allowed in which districts. A provision could also be included, similar to the existing language in Section 5.1, which indicates where a use is not included in the table, it should be considered prohibited. According to recent discussions with land use attorneys, this would accurately reflect case law.
- Dimensional standards are also provided in narrative format separately for each zoning district, which can be confusing and hard to find.
  - We recommend that a summary dimensional table be provided instead of the separate narrative dimensional standards.
- Design Standards (e.g., Parking, Lighting) are provided within the section of Site Plan Review. This can be prohibitive and confusing if the Town decides it wishes to apply these standards to projects that fall outside the jurisdiction of Site Plan Review.
  - We recommend that these be provided in a separate "Development Standards" section. The Site Plan Review section should then include a reference to the development standards section. We may also consider moving some of the development standards to the subdivision rules and regulations if that seems more appropriate.
- Many of the more administrative "nuts and bolts" currently exist towards the end of the by-law. These include basic provisions for Special Permits, powers of various officials, provisions for amending the by-law, etc.
  - We recommend moving these sections to the beginning of the document.

### **Sample Proposed Outline**

#### **Table of Contents**

- 1.0 Authority, Purpose, Definitions
  - 1.1 Authority
  - 1.2 Purpose
  - 1.3 Definitions
- 2.0 Administration
  - 2.1 Board of Appeals

- 2.2 Special Permits
- 2.3 Site Plan Review
- 2.4 Enforcement
- 2.5 Amendment
- 2.6 Validity
- 2.7 Variances
- 2.8 Exemptions
- 3.0 Establishment of Zoning Districts
  - 3.1 Classification of Districts
  - 3.2 Zoning Map
  - 3.3 Location of Boundaries of Districts
    - Note that this section would include general statements about where boundary lines are typically found in relation to the street or right-of-way, or references to overlay district zoning maps that are not incorporated into the general zoning map. This section would not include narrative descriptions of zoning district boundaries (e.g., Section 3.2.1) as this language is often not useful today.*
- 4.0 Use Regulations
  - 4.1 Narrative Use Regulations – Base Zoning Districts
  - 4.2 Use Table
  - 4.3 Non-Conforming Uses and Structures
- 5.0 Dimensional Regulations
  - 5.1 Dimensional Table
- 6.0 Overlay and Special Districts
  - 6.1 Wetlands and Floodplain Overlay District
  - 6.2 Groundwater Aquifer Protection District
  - 6.3 Neighborhood Housing Overlay District
  - 6.4 Etc.
- 7.0 Development and Design Standards
  - 7.1 Parking
  - 7.2 Drainage
  - 7.3 Landscaping
  - 7.4 Lighting
  - 7.5 Buildings
  - 7.6 Sustainable Design
  - 7.7 Signs
- 8.0 Special Regulations
  - 8.1 Telecommunications Facilities
  - 8.2 Large-Scale Ground-Mounted Solar Energy Systems
  - 8.3 Conservation Subdivision Design
  - 8.4 Adult Entertainment
  - 8.5 Etc.

Appendix A. History of Zoning By-law Amendments

Appendix B. Index

## **“Running List” of Specific Issues Identified in the Audit**

The following list will serve as a “stream of conscious” record of individual issues identified in the Zoning By-Law as the project evolves. This list will help the project team track issues and problematic text as we restructure the By-Law.

### **Section 1. Purpose**

1. The first sentence references a “comprehensive plan.” This should be changed to Master Plan.

### **Section 2. Definitions**

1. Last sentence of the preamble uses following and follows...redundant.
2. Base Flood Level may be defined twice; in this section and in the overlay section.
3. Building Height should probably exempt rooftop solar energy facilities.
4. Development should include “clearing”.
5. Farm definition should be cross-referenced with statutory definition.
6. Mean Sea Level datum should be updated to 1983
7. Special Permit definition should be cross-referenced with Chapter 40A.
8. Start of Construction does not include “clearing”.
9. Structure definition: why are gasoline canopies exempted?
10. Check Variance definition with Chapter 40A
11. Definitions of Yard should have a diagram.

### **Section 3. Establishment and Classifications of Districts**

1. First sentence references 13 classes. This should be 17.
2. Section 3.2.1 should have map reference date updated and correction of “thirteen” districts.
3. Section 3.2.1 should have flood map date updated?
4. Descriptions of the Adult Entertainment District and Multifamily Development Overlay should be archived in an appendix. The By-Law can just reference a Zoning Map.
5. In general, this section could be reorganized
6. Section 3.3 presents a very interesting policy. Discussion with the Town Planner indicates this has been used a couple of times and is the same language seen in at least one other local ordinance. We should discuss how this came to be, how it has been used, etc.

### **Section 4. General Provisions**

1. Section 4.2.2: Last sentence ends with “subject to approval by the Board of Appeals.” We should clarify that this is a Special Permit or Variance.

2. Section 4.6 references Section 10 of the By-Law. We understand that this is likely correct, since section 10 is the old Parking Plan section (now Site Plan Review), and this section does discuss parking spaces. Although we should discuss the purpose of this section.
3. Section 4.7 lays out the lot requirements for multi-family. These requirements will not likely allow for the viable development of multi-family housing and should be revisited.
4. Section 4.9 provides a fairly ambiguous criterion for pork chop lots. Something more specific should be developed for the benefit of the Planning Board.

#### Section 5. Non-Conforming Uses

1. This section should cover more than “use” so perhaps the title gets changed to “Nonconformity”.
2. Section 5.1 provides the definition, which could be moved and discussed in the reorganization proposal. The word “legal” should be placed before the word “nonconforming”. This is a pattern throughout the section.
3. The difference between Section 5.2.1 and 5.2.3 is not very clear.
4. Check with Town Counsel to see if Section 5.2.2 is legally sound.
5. Check 2<sup>nd</sup> paragraph of Section 5.3 with Town Counsel.
6. Section 5.4.1 seems to conflict with itself and should be discussed with Town Counsel.
7. Section 5.5 needs to be updated to reflect the new state definition of agriculture and may also need to include broader language to reflect Chapter 40A section 3.

#### Section 6. Residence Districts

1. Is 6.1.1 effectively prohibiting the raising of livestock? Does this raise red flags with state agricultural exemptions?
2. Section 6.2 title should use the phrase “...AFTER SPECIAL PERMIT APPROVAL...”
3. Section 6.2.1 requires a special permit for a temporary trailer. This makes things more difficult than necessary for the Town and the developer.
4. Section 6.2.2 should be examined along with section 4.7.
5. Section 6.2.3 should be updated with new statutory definitions.
6. Under section 6.2.3, the Town may wish to consider performance standards for keeping chickens and bees in residential areas.
7. Section 6.2.4-19: Make sure these terms are included in the Definitions section.
8. Subsection 19.2 uses the term “historical significance”. This should be defined.
9. Section 6.3.1 needs to be cross-referenced with Section 4.9 and the word “front” should be inserted before “setback” in the first sentence.
10. Section 6.9: Is this standard the “lesser of” the two numbers provided?
11. We should have a discussion about the overall feeling in Seekonk about Home Occupations. The current by-law looks fine, but there are other ways to be more flexible.
12. Section 6.14.2.1: the term “additional runoff” should be clarified. Overall volume? Peak rate of discharge?
13. Section 6.14.2.2: this standard isn’t really necessary and may preclude the effective use of rain gardens or other features.

## Section 7. Local and Highway Business Districts and Luther's Corners Village District.

1. General comment is that the section does not use numbered subsections. This will help with overall organization.
2. As the issue of "allowable use" is addressed, all of the language in this section will need to reflect those changes.
3. There is language in here specific to buffering activities in service stations. This could be addressed in a stand alone "buffers" section under a reorganized by-law.
4. Some numeric standards need to be clarified. Accessory apartments are maximum 8 units. Is this 8 units per acre? Small business or office is under 2,000 square feet. Is this tenant or building footprint?
5. Section 7.2 title needs the phrase "...AFTER SPECIAL PERMIT APPROVAL..."
6. Allowable uses for Luther's Corners will be revisited. For example, why would "Engineering Professional Offices" be specified in contrast with "Business or small office"?
7. Section 7.9: a more comprehensive lighting by-law in its own section should be considered, perhaps using standards from darksky.org. (more comprehensive than Section 10.6.4 as well).

## Section 8. Industry Districts

1. Section 8.1 and 8.3 are contradictory in that 8.3 really opens the door to any business district. This may be the approach the Town wishes to take, but clear performance standards would be helpful for determining whether a business use is appropriate.
2. Section 8.2 might be organized to reflect industry that should be more strictly regulated (e.g., processing, fabrication, etc.) and industry that produced fewer concerns (e.g. assembly, non-toxic storage, etc.). Also, the religious and educational exemptions could be addressed elsewhere.
3. Numeric standards should be applied to the standards under Section 8.4 to the extent possible.
4. Standard 8.5.2 is probably not necessary
5. Standard 8.5.5 does not specify the setback required along railroad tracks
6. Section 8.5.5 should be reviewed in contrast with Section 4.4 to ensure consistency
7. Section 8.6 should be considered from a policy perspective. The breadth of allowable uses could be increased with more ambiguous language relative to use and clearer performance standards.

## Section 9. Special Districts

### Section 9.1 Planned Unit Development

1. Section 9.1.1 and 9.1.2: The intent of this district is potentially very positive and speaks to the type of development many participants in the Master Plan process called for in various districts. However, it appears that Town Meeting approval is required to get a development proposal approved. This is a tremendous disincentive for what could be very positive development. This type of planned development should be woven into all of Seekonk's commercial and mixed used districts as a by-right option with serious design standards.

#### Section 9.2 Wetlands and Floodplain Protection District

1. Section 9.2.2: We understand that the map reference (to "Superimposed Zoning District" current) is part of the new GIS zoning map, and may need to be updated.
2. Section 9.2.2.1: How does this definition compare with the state Wetlands Protection Act and the local Wetlands By-Law? We understand that there is a question as to whether there is a need for wetlands to be included in this District since they are regulated by State and other local bylaws.
3. The relationship between Section 9.2.3.4 and other performance standards is not clear? Does the standard in question preempt the ability of the ZBA to grant a Special Permit in the regulated floodway? It also seems like it might contradict 9.2.4.2.5.1.
4. Section 9.2.5 provides numerous standards that probably deal with the Building Code and may not be appropriate to have them in the By-Law. We can check with the Building Inspector on this.
5. Section 9.2.5 seems a little out of place given the majority of applications will come through the ZBA, not the Building Inspector.
6. Strike the last sentence of Section 9.2.5.3. All subdivision applications, not just those of a certain size, should provide base flood elevation data.
7. Section 9.2.5.7 provides a 21 day window for comments. It is not clear where that 21 days falls within the Special Permit process.

#### Section 9.3 Mixed Use Zone

1. Section 9.3.1 could be revised to better reflect the language in the Master Plan for "Corridor Mixed Use"
2. Some standards under 9.3.3 are ambiguous and we should understand how the Town is enforcing them. Also, allowable uses and performance standards are mixed together in this section.
3. It may be possible to use the standard Site Plan Review section for this Zone instead of having its own Site Plan Review within the Special Permit. We understand that there are some that feel strongly that a special permit should be required for uses that are within an underlying residential zone, as opposed to being by-right.
4. The Town should explore allowing this development by-right with heavier design standards.

#### Section 9.4 Groundwater Aquifer Protection District

1. HW recently updated the Town of Marshfield bylaw, so this document contains all of the standards and definitions that are most recent. We will provide a copy for the Town's consideration.

#### Section 9.5 Adult Entertainment District

1. Section 9.5.4: Adult Entertainment requires a Special Permit in all cases. The Town should receive legal opinion on this. Although we are not certain, it may be a legal requirement to allow Adult Entertainment by-right somewhere in the community.
2. Section 9.5.4.2: This standard seems out of place within a Zoning By-Law. An opinion from the Town's legal counsel should be sought.
3. Section 9.5.7: Although we are not certain, it may not be within the power of zoning to put a retroactive requirement on any use. Chapter 40A grandfathers lawfully established pre-existing non-conforming uses. A General By-Law may be required to impose a retroactive application. An opinion from the Town's legal counsel should be sought.

#### Section 9.6 Multifamily Development Overlay District (MDOD)

1. This section needs to be discussed. We understand that this district may have been "piloted" with an individual proposal. If the Town is happy with the results, the Town should consider where else this might be appropriate. However, while multifamily may be appropriate elsewhere, since these regulations were piloted with an individual proposal, it may not be possible for other sites to effectively utilize this Overlay. There may be better ways to implement this type of development using tools like TDR or Cottage Community Zoning. These models could be used as transitional or infill models for the existing villages. The minimum area of 40 acres may need to be reduced depending on the results of the discussion.
2. Sections 9.6.7.1 and 9.6.7.2 have some language that may be conflicting. It's not clear whether allowing 10% of the open space to be built upon would make certain allowable uses feasible.
3. Section 9.6.7.4: New language was recently drafted by the state that better addresses issues related to open space ownership.
4. Section 9.6.9: The "objectives" to be considered by the Planning Board should be moved under the standards. This will make the by-law stronger within the context of Site Plan Review.
5. Section 9.6.10: Check with counsel to see if this is the correct appeal. This is a by-right Site Plan Review so we are not certain if it will go to the ZBA.

#### Section 9.7 Telecommunication Facilities Overlay District

1. HW was recently part of a project in Walpole where these provisions were revised. We will provide that section of the by-law for the Town's consideration.

### Section 9.8 Solar Photovoltaic Overlay District

1. Section 9.8.6.6: See comment #5 under Section 9.6 above. Check with counsel to ensure this is the correct appeal authority.
2. Section 9.8.7.2: This is the first mention of these sections of the General By-Law. Other sections of the by-law reference the subdivision regulations. We understand that 20B/20C were created before this section was, hence the reference. Other sections, including the subdivision regulations should reference these new General Bylaws.
3. Section 9.8.11.2: There are several sections of the by-law that discuss abandonment and these sections are using different timeframes for action. This issue should be discussed with counsel and perhaps made consistent throughout the by-law.
4. Section 9.8.12: Language here is different than what is used under telecommunication facilities. Let's discuss with counsel and see if there's a way to make this consistent and most advantageous to the Town.

### Section 9.9 Economic Development Overlay District

1. We can discuss what was intended here and potential strategies to address those goals. We understand the Town recently obtained 12 additional liquor licenses from the State Legislature and was told that they should be tied to a certain area and this was the mechanism they recommended. The reference in here to a separate map, like all other references to separate maps, could be eliminated and just reference the official zoning map in section 3.2.1.

### Section 10. Site Plan Review

1. Section 10.3: We understand that there is interest in re-working this section. There needs to be something clearer to tell the user/regulator when a Site Plan Review is required. Also, perhaps a minimum amount of spaces exemption should be in here, say 5 spaces or less doesn't require a Site Plan Review. We also suggest starting this section with the phrase "Unless specifically exempted or preempted elsewhere in the Zoning By-Law..." This would allow removal of the second paragraph.
2. Section 10.3 states that residential uses are exempt from Site Plan Review. We understand that the intent for this was to avoid having residential projects go through Site Plan Review. This language should probably be modified to avoid confusion with mixed use proposals and applications under the Mixed Use Overlay, which require Site Plan Review.
3. Section 10.4: After "Town Planner", consider inserting the phrase "who may invite the..." This puts more of the burden of the Town to facilitate the meeting and may make the pre-application process more inviting.
4. Section 10.6: General comment—these standards could be moved into the overall by-law as part of the reorganization.
5. Section 10.6.1.2: We should discuss whether the town wants to consider increasing these percent reductions..



6. Section 10.6.1.3: General comment—the uses listed in the parking schedule should be easily cross-referenced with “allowable uses” earlier in the by-law.
7. Section 10.6.1.6: The Town may wish to consider providing for an easier path of relief for buildings in existing and proposed villages. A variance is difficult to obtain and could hurt reoccupation of buildings in places like Luther’s Corners. Does the 5,000 square foot threshold in 10.6.1.7 adequately address this? This section could be amended to eliminate zoning relief.
8. Section 10.6.1.10: The Town should consider more detailed standards for allowing off-site parking rather than relying on the discretion of the Planning Board.
9. Section 10.6.1.16: This distance from an intersection should be longer. Perhaps there is guidance for relief where lot dimensions would not make a longer distance feasible.
10. Section 10.6.1.20: It would probably be useful to have a traffic consultant provide a list of what should be in the impact analysis. Or perhaps the Town received one that was particularly good and can use that as a model.
11. Section 10.6.2.1: This standard may result in poor site design practices. There are alternative approaches (e.g., matching peak flows for pre- and post-construction conditions) that may be more appropriate. Referencing 20B/20C may be appropriate here too.
12. Section 10.6.3.1: Relief should be provided here to reduce or eliminate buffers where it is advantageous to the design scheme.
13. Section 10.6.3.6: Screening may not be needed for trash areas that are not within view from public areas or residences.
14. Section 10.6.6: Seekonk will eventually want a detailed set of design standards for different districts. This should be significantly expanded.
15. Section 10.6.7: While this looks to be a good idea, the Town may wish to be more specific about which standards would be waived and to what extent. Would a LEED certified building get to double its parking? Interesting policy questions. We understand that to this point, when someone has asked for a waiver for more parking than is required, the town has asked for LEED/LID techniques but has not quantified it. Also, it should be stated that existing site may be more apt to receive such a waiver. Brand new sites should in most instances have to play by the new rules (i.e. reduced parking).
16. Section 10.6.8.1: This is a good idea, but it may be legally questionable to give the Planning Board this type of discretion within a process that is meant to be non-discretionary.
17. Section 10.6.8.4: These standards could be strengthened. We understand that the town has not yet used them.
18. Section 10.6.8.6: The requirements of a landscape belt could also include 5’ x 5’ cut out boxes. In general, better planting specifications are now available thanks to research in more urbanized settings.
19. Section 10.8.7: These are all good standards. The word “should” is used here and leaves the Town open for undesirable outcomes.
20. If the words “may” or “should” are being used, how does this affect the applicability section?
21. Section 10.8: Check appeal authority with legal counsel to make sure this is accurate.

## Section 11. Special Permits

1. Section 11.3 should include provisions for extending the hearing and deliberation period as allowed by law.

## Section. 12. Signs and Advertising Devices

1. General observation: The pictures provided really help with the by-law. Although it is not immediately clear this is possible, HW would like to explore the possibility of developing a hierarchy chart. This would show when one sign is part of a larger category. If that isn't possible, we will make sure it is explained in the definitions.
2. Related to #1 above, HW will perform a more thorough search of this section of the by-law when drafting begins. It will be very useful to see which defined terms are used (or not) in Sections 12.3 through 12.7. Some of it may be implied, which would make the hierarchy chart or similar approach more useful. But in some cases, it seems possible that the bylaw standards are silent on some sign types that are defined.
3. Political signs receive special treatment under federal law and this should be more explicitly addressed in this by-law. We will review this with legal counsel.
4. Section 12.3.3.5 and 12.3.3.7: An "abandoned sign" is basically defined as one that is in disrepair or out of service for 30 days or more. Section 12.3.3.7 seems to follow that timeframe for enforcement. However, Section 12.3.3.5 states that a sign that's been abandoned for two years or longer is prohibited. This may need some clarification.
5. Section 12.3.3.8: This section would benefit from the hierarchy approach. It would be useful to know which specifically defined signs are being included in the phrase "temporary signs".
6. Section 12.3.3.9: This is an important policy decision for the Town and we can discuss the pros and cons as well as some design considerations.
7. Section 12.3.3.12: Signs that are "moving, mobile, or revolving" sound like "animated signs" as included in the definitions. Again, stronger connections between the standards and the definitions might need to be made. Also, this needs to be cross-reference with 12.6.6.1 related to digital signs that provide public-oriented information.
8. Section 12.4.2: Clarification may be needed here to reinforce the fact that "roof signs" are prohibited.
9. Section 12.4.5: Instead of requiring a 12-foot setback, we might explore the need for a "sight triangle" or similar measurement to ensure proper visibility along curved roads.
10. Section 12.6.1.3: From an enforcement perspective, it may be better to move this to the General By-Law
11. Section 12.7.1 addresses the political sign issue raised previously, but it is not clear to us that the Town can require these to come down after 30 days (Section 12.7.7). We understand that TC has stated that 120 days maximum would likely prevail in a legal challenge.

### Section 13. Yard Exceptions

1. If the Town would like to keep this standard, it should be integrated directly into the dimensional standards for the residence districts

### Sections 14 through 24

1. Detailed review will be performed after drafting is complete for other sections to ensure consistency. Moving these to the beginning of the by-law is recommended as discussed previously.

### Section 25. Conservation Subdivision Design

1. Section 25.4: This section contains some language that is procedural (as the title suggests) but also some standards (e.g. maximum disturbed area). We understand that the town is looking for assistance here, and that it's been confusing as to whether they are requiring 75% open space (based on this reg of 25% max dist area) or 40% open space as stated in 25.9. This language should be separated. Also, required information might be better kept in the Subdivision Regulations to allow for waivers, etc.
2. Section 25.5: This section might be expanded to better explain what should be preserved and what can be compromised. While this creates a longer by-law, developers will prefer the transparency and it will make this option more attractive. Good examples in Massachusetts often specifically identify "primary" and "secondary" protection areas and include the depiction of these on an independent site plan.
3. Section 25.7: This is probably the most frequently debated piece of Conservation Subdivision standards. Some towns use a physical "Yield Plan", others use a simpler formulas based approach. Either method is viable and would probably be preferred by both the Town and a developer because of the high level of certainty.
4. Section 25.9: The percentage of open space could be scaled to different districts. Where larger lots are required, large amounts of open space may be appropriate.
5. Section 25.9: New ownership language for open space was recently crafted at the state level. Seekonk should review and incorporate this language as appropriate.

## MODEL BYLAW FOR ACCESSORY DWELLING UNITS

### Introduction

Accessory dwelling units (also known as ‘accessory apartments’, ‘guest apartments’, ‘in-law apartments’, ‘family apartments’ or ‘secondary units’) provide units that can be integrated into existing single family neighborhoods to provide low priced housing alternatives that have little or no negative impact on the character of the neighborhood.

The regulatory approach used by most municipalities for accessory dwelling units is a zoning bylaw that permits an accessory unit, thereby allowing certain improvements to be made to the existing dwelling. Provisions can address certain restrictions based on whether the dwelling existed as of a certain date, the maximum allowed building and site modifications, the options for choosing inhabitants, whether the main unit needs to be owner occupied, and minimum lot sizes. However, the greater the number of restrictions, the fewer options there are available to homeowners for adding the units.

The following is a model bylaw for accessory dwelling units. It is recognized that there is no single “model” that can be added to community regulations without some tailoring, therefore revisions to the text within this model is encouraged. There may also be a need to examine local development review process to find ways that the process can be streamlined to encourage homeowners to use the accessory dwelling unit ordinance.

The annotation included in this model bylaw will not be part of the adopted bylaw, but will serve as a “legislative history” of the intent of the drafters and the interpretation to be given to certain terms and provisions. The annotation includes some recommended positions that reduce burdens on both homeowners and municipalities when implementing the bylaw.

### MODEL BYLAW

**01.0 Purpose and Intent:** The intent of permitting accessory dwelling units is to:

1. Provide older homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing;
3. Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
4. Provide housing units for persons with disabilities;

5. Protect stability, property values, and the residential character of a neighborhood.

**COMMENT:** *Accessory dwelling units are a relatively rare circumstance in most communities, but can be very important to the homeowner that needs this option. There are various provisions in this model bylaw that will ensure that the appearance of neighborhoods are not substantially affected, including limitations on floor area, number of bedrooms, setbacks, ingress/egress location, and ensuring that accessory dwelling units are installed only in owner-occupied houses.*

## 02.0 Definitions:

1. Accessory Dwelling Unit: An Accessory Dwelling Unit is a self-contained housing unit incorporated within a single-family dwelling (not within accessory structures, except with a Special Permit) that is clearly a subordinate part of the single-family dwelling and complies with each of the criteria stated below.

**COMMENT:** *The definition of an accessory dwelling unit can restrict tenants to family members, low- or moderate-income tenants, or be unrestricted. However, unrestricted or family-member-only units will not count towards the 10% goal of the Subsidized Housing Inventory (SHI). This bylaw is not intended to provide housing which would count towards the Commonwealth's Local Initiative Program ("LIP"). Please see the Department of Housing and Community Development's regulations for addition information and requirements regarding the LIP.*

**RECOMMENDED POSITION:** *Do not restrict tenants. Allowing only family members is easiest politically and may limit the overall impact of the units, but it will also limit the use (and re-use) of these units and may result in additional administration costs associated with enforcement. Having no restrictions on accessory dwelling unit tenants gives greater control over the unit to the homeowner while offering more diverse housing opportunities.*

**COMMENT:** *Restricting accessory dwelling units to low-income tenants may help add units to the town's SHI list; however, the units must be permitted under a DHCD-approved bylaw. This model does not contemplate the SHI compliance.*

**COMMENT:** *The following definitions (or similar) are typically used in an accessory dwelling unit bylaw to support the accessory dwelling unit definition.*

2. Building, Attached: A building having any portion of one or more walls in common or within five feet of an adjacent building.
3. Building, Detached: A building having a five feet or more of open space on all sides.
4. Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

**COMMENT:** The limitations on accessory dwelling units that are identified in the bylaw will strengthen the distinction between two-family dwellings, and single-family dwellings with accessory dwelling units. However, it is recommended that a community review its other definitions and residential bylaws to ensure the distinction.

6. **Dwelling Unit:** One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. This definition does not include a trailer, however mounted.
7. **Primary Residence:** A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

### 03.0 Procedural Requirements:

1. **Review procedure:** [Refer to the existing Special Permit or Site Plan Review procedures for your municipality.]

**COMMENT:** Permitting can be through Special Permit, Site Plan Review, or As-of-Right. The Special Permit procedure is a legislative procedure that provides the highest level of control to the municipality. A Special Permit approval is attached to the land, meaning that it is not affected by change of ownership unless specified. Site Plan Review provides an opportunity for a local entity within the municipality (other than the Building Commissioner) to review the design (possibly including both site plans and elevations) of a proposed development to determine the impacts on surrounding properties. The As-of-Right procedure allows property owners to submit construction plans to the Building Commissioner for assessment against relevant zoning bylaws (including accessory dwelling unit bylaws) prior to issuing a construction permit.

**RECOMMENDED POSITION:** For accessory dwelling units within a home, use as-of-right; for attached or detached accessory dwelling units use Special Permit. As-of-Right permitting will facilitate the development of units that have limited or no impact from the street; for attached and detached units, towns may wish to have a heightened level of control especially on issues of design compatibility and privacy.

### 04.0 Use and Dimensional Regulations:

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an accessory dwelling unit within an existing or new owner-occupied, single-family dwelling and the Special Permit Granting Authority (SPGA) may issue a Special Permit authorizing the installation and use of an accessory dwelling unit in a detached structure on a single-family home lot only when the following conditions are met:



**COMMENT:** The SPGA is usually designated as either the Zoning Board of Appeals or Planning Board.

**COMMENT:** Some towns allow all single-family homes to contain accessory dwelling units, while others restrict it to homes existing prior to a certain date, or to a maximum percentage of the community.

**RECOMMENDED POSITION:** Allow accessory dwelling units in all single-family homes that can meet the requirements of the bylaw. This will enable more accessory dwelling units and reduce administration burdens on the municipality associated with assessment of each unit.

- (a) The unit will be a complete, separate housekeeping unit containing both kitchen and bath.

**COMMENT:** This provision is to ensure that the unit is separately habitable.

- (b) Only one accessory dwelling unit may be created within a single-family house or house lot.

**COMMENT:** This provision is to ensure that accessory dwelling units remain ancillary to the principal single-family dwellings.

- (c) The owner(s) of the residence in which the accessory dwelling unit is created must continue to occupy at least one of the dwelling units as their primary residence, except for bona fide temporary absences.

**COMMENT:** This helps to protect the stability and character of the neighborhood. Provided that similar circumstances prevail, a change of ownership should not automatically result in a Special Permit lapse (refer to 04.5 below).

- (d) Any new separate outside entrance serving an accessory dwelling unit shall be located on the side or in the rear of the building.

**COMMENT:** This is to ensure that the principal dwelling has the appearance of a single family dwelling. However, entrances could be combined in a single location.

- (e) The gross floor area of an accessory dwelling unit (including any additions) shall not be greater than nine hundred (900) square feet.

**COMMENT:** The sizes of accessory dwelling units allowed in the various bylaws studied ranged from 500 to 900 square feet. The purpose of stating a maximum floor area is to ensure that the unit remains subordinate to the single-family dwelling. An additional limitation that can be placed on accessory dwelling units is the number of bedrooms (see 04.1(g) below). This limitation may be more important in areas that are not served by a sewer and/or water supply. Another alternative is to use the Special Permit to allow larger ADU's when located in larger homes with additional size criteria added to the bylaw/ordinance.

**COMMENT:** An option for the size of the unit could be a percentage of the existing main dwelling, with a minimum to ensure appropriate living space is available in the accessory dwelling unit.

- (f) Once an accessory dwelling unit has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the nine hundred (900) square feet allowed by this bylaw/ordinance.

**COMMENT:** This enables homeowners to make modifications and additions to the accessory dwelling unit while remaining subordinate to the single-family dwelling.

- (g) An accessory dwelling unit may not be occupied by more than three (3) people nor have more than two bedrooms.

**COMMENT:** The intent of this provision is to limit impacts on sewer and water supply systems. This is an important issue for accessory dwelling units in areas that are not served by a sewer or water supply (see 04.1.(h)). Local conditions may suggest a different number of bedrooms and a different number of people allowed.

- (h) The construction of any accessory dwelling unit must be in conformity with the State Building Code, Title V of the State Sanitary Code and other local bylaws/ordinances and regulations.

**COMMENT:** Provisions can be added in the bylaw stating that the accessory dwelling unit must conform to all applicable health, building, and other codes. In areas without sewer and water infrastructure, a minimum lot size may be needed to ensure that the accessory dwelling unit has adequate and safe water supply and sewage disposal. It should be noted that the provisions of the accessory dwelling unit bylaw may not conflict with the State Building Code, Title V of the State Sanitary Code or other local bylaws relating to health and safety without appropriate variance.

- (i) Off-street parking spaces should be available for use by the owner-occupant(s) and tenants.

**COMMENT:** The accessory dwelling unit may result in demand for extra vehicle parking; however, the number of additional vehicles associated with the property may be minimal due to the limited size of the unit. The typical requirement is for one additional on-site parking space for the accessory dwelling unit.

**RECOMMENDED POSITION:** Require one additional parking space and consider allowing a waiver when transit is a reasonable option.

2. In order to encourage the development of housing units for disabled and handicapped individuals and persons with limited mobility, the SPGA may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.



3. Approval for an ADU requires that the owner must occupy one of the dwelling units. The zoning approval and the notarized letters required in 04.4 and 04.5 below must be recorded in the County Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.
4. When a structure, which has received a permit for an accessory dwelling unit, is sold, the new owner(s), if they wish to continue to exercise the Permit, must, within thirty (30) days of the sale, submit a notarized letter to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences.

*COMMENT: Some municipalities include a provision in the bylaw/ordinance stating that the zoning approval or Special Permit for the accessory dwelling unit will lapse if the owner no longer occupies one of the dwelling units. This adds unnecessary administrative burden on the municipality. Provided that similar circumstances prevail, a change of ownership should not automatically result in a permit lapse.*

5. Prior to issuance of a permit, the owner(s) must send a notarized letter stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.

*COMMENT: Some bylaws/ordinances specify time periods for which the owner must occupy the dwelling in any given year, however, enforcement of this adds unnecessary administrative burden on local officials.*

6. Prior to issuance of a permit, a floor plan must be submitted showing the proposed interior and exterior changes to the building.

*COMMENT: This is to demonstrate that the accessory dwelling unit will not significantly affect the appearance of the single-family dwelling.*

## 05.0 Administration and Enforcement

*COMMENT: Cities and towns need to examine their development review processes to find ways that the review process can be streamlined so homeowners are encouraged to use the accessory dwelling unit ordinance. It is recognized that most towns have existing illegal accessory dwelling units, and if a town is to encourage homeowners to legalize the existing units or create new accessory dwelling units under this bylaw, the process should be made as straight forward as possible. Making the process simple for the homeowners while still imposing all reasonable requirements for accessory dwelling units helps reduce the administrative burden on municipalities.*

**COMMENT:** Some towns require annual notarized letters attesting to the conditions of the accessory dwelling unit (owner-occupancy and any restriction on tenancy). Some bylaws require annual renewal of the permit.

**RECOMMENDED POSITION:** No requirements for annual compliance or renewal are recommended. This places unnecessary burden on local officials. Using change in ownership as the trigger for renewal of the accessory dwelling unit is preferable.

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.
2. No building shall be constructed or changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the town's laws and bylaws. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Inspector where required.
3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter or in a violation of the conditions or terms of any special permit or variance granted by the Board of Appeals or its agent.
4. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
5. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this chapter unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.
6. The SPGA specified in this section may, after making findings of fact that support the decision, approve modifications to the dimensional standards of this bylaw, section 04.0, that will not exceed those standards by more than [10] percent.

**COMMENT:** These provisions may be standard within the community's regulations, and can be simply referenced in this section. Additional references may be made to the Site Plan Review and Special Permit processes if included in this bylaw.

# ***TOWN OF SEEKONK***

## ***Planning Board***

### **MEMORANDUM**

**To:** The Planning Board

**From:** John P. Hansen Jr., AICP, Town Planner

**Date:** November 1, 2012

**Re:** October monthly report

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#### **BYLAWS**

##### Zoning Bylaw rewrite

- BOS executed contract; Horsley Witten began data gathering

##### Affordable Housing Incentive Zoning

- Favorable recommendation to be given at Nov TM.

##### CCRCOD

- Favorable recommendation to be given at Nov TM.

#### **PLANS**

##### Master Plan

- Implementation on-going.

##### Luther's Corner Parking/Circulation Study

- Neighborhood meeting held on 10/2; Project Need Form submitted to State.

#### **MISC**

##### Morris St rezone

- Favorable recommendation to be given at Nov TM.

# ***TOWN OF SEEKONK***

## ***Planning Board***

### **MEMORANDUM**

**To:** The Planning Board

**From:** John P. Hansen Jr., AICP, Town Planner

**Date:** December 3, 2012

**Re:** November monthly report

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#### **BYLAWS**

##### Zoning Bylaw rewrite

- First draft of audit complete; To be presented at Dec mtg.

##### Affordable Housing Incentive Zoning

- Approved at Nov TM.

##### CCRCOD

- Approved at Nov TM.

#### **PLANS**

##### Master Plan

- Implementation on-going.

#### **MISC**

##### Morris St rezone

- Approved at Nov TM.

##### GIS

- Completing town-wide wetlands GIS file based ConCom approved plans.

## PLANNING BOARD MEETING DATES 2013

### Planning Board Meeting Dates

January 8, 2013  
February 12, 2013  
March 12, 2013  
April 9, 2013  
May 14, 2013  
June 11, 2013  
July 9, 2013  
August 13, 2013  
September 10, 2013  
October 8, 2013  
November 12, 2013  
December 10, 2013

**SEEKONK PLANNING BOARD**  
**Public Hearing and Regular Meeting**  
**MINUTES**  
**October 9, 2012**

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Present: Ch. Abelson, R. Bennett, R. Horsman, S. Foulkes, M. Bourque (7:02), L. Dunn,  
J. Ostendorf  
J. Hansen, Town Planner

Absent:

7:00 pm Ch. Abelson called the meeting to order.

**Form A: 478 Central Avenue A.P. 34 Lot 86 – Arthur & Diane Trahan**

Peter LaVoie of Landmark Site Design, Inc. representing the applicant summarized that there is an existing single family dwelling on the property and it is zoned R-1. He proposed to divide off a lot with 131.9 of frontage leaving the house lot with 134.18' of frontage. Both lots will have access along Central Ave.

A motion was made by R. Horsman seconded by L. Dunn and it was

**VOTED: (6-0-1) to endorse Form A: 478 Central Ave. A.P. 34 Lot 86**

**By: Ch. Abelson, R. Bennett, L. Dunn, S. Foulkes, R. Horsman, J. Ostendorf  
M. Bourque - abstain (late to meeting)**

**Surety Release/Road Acceptance Recommendation Pine Meadow Estates**

J. Hansen summarized that this was before the board in February 2012 and the only thing that needed to be completed at that time was the planting of the street trees which after his inspection with B. Lamoureux has been done. He recommended that the Board approve the release of the remaining surety and recommend to Town Meeting that Pine Meadow Drive be accepted.

R. Horseman made a motion seconded by M. Bourque and it was unanimously

**VOTED: to approve the release of final surety and recommend to Town Meeting that Pine Meadow Drive be accepted.**

**By: Ch. Abelson, R. Bennett, L. Dunn, R. Horsman, M. Bourque, S. Foulkes, J. Ostendorf**

**Form A: 882 Arcade Ave. Plat 10 - Lot 20, Plat 15 - Lots 13, 19, 20, 23, Plat 13 - Lot 42**  
**Watermellen LLC**

J. Hansen summarized existing condition is a single family dwelling on property and is zoned R-3. The lot amendment would be to divide off the house lot with 163.82' of frontage leaving the remaining back land (36.5 ac) for future subdivision along Arcade Ave.

A motion was made by J. Ostendorf seconded by R. Horsman and it was unanimously

**VOTED: To endorse Form A 882 Arcade Ave. A.P. 10 Lot 20 , A.P. 15 Lot(s) 13, 19, 20 & 23, A.P. 13, Lot 42**

**By: Ch. Abelson, R. Bennett, L. Dunn, R. Horsman, M. Bourque, S. Foulkes, J. Ostendorf**

**General Discussion and Correspondence**

R. Horsman asked about the traffic situation at Luther's Corners.

J. Hansen gave the board a summary of the October 2, 2012 Luther's Corners Village Public Workshop. He noted there was a good attendance approximately 15 -20 people and everyone was in support of it. He said there was concern from the Seekonk Congregational Church that they would lose on street parking, but they understand that the funding is five years minimum giving the church time to plan for it.

J. Hansen went on to say that the traffic plan the Board endorsed is now going to get turned into a project. DPW will fill out the funding forms and give it to SRPEDD who then gives it to the State.

J. Hansen noted that the Town Meeting will be on 11/13/12 which is on the Planning Board's typical meeting night. There are no agenda items to date so he said as of right now he did not see a need to meet in November.

J. Hansen told the board that at the BOS 10/10/12 meeting the official Zoning Bylaw Update contract with consultant Horsley Witten will be signed. The Town Administrator asked if someone from Planning could be there.

Neal Abelson said he would go to the BOS meeting.

J. Hansen told the Board that the Town Administrator put together a new idea this year that "Goals" be established by each department with a follow up evaluation; he noted his evaluation was going to be the next day (10/10/12). He received the written copy already and overall it was good with the only negative comment regarding the Planning Office being closed at times. J. Hansen said his response to this comment would be that the secretaries are both part time, they have set hours and are not on call. He went on to give the board his nine goals.

J. Hansen informed the Board that he was asked to attend the meeting with the Lt. Governor to look at the property on Fall River Ave for a new South End Fire Station.

**Discussion: Master Plan Implementation -- Planning Board**

J. Hansen had two items to discuss from the Master Plan.

1) To explore the possibility of having sewers in Town. He noted that this was what 63% the residents had indicated they wanted in the survey. So he felt it should be explored. His recommendation; write a memo to the BOS indicating the result of the survey.

2) Ask the BOS in a memo to explore Attleboro to accept Seekonk as part of their Economic Target Area (ETA). An ETA is a State designation for certain areas that have economic and demographic criteria that may be below what State averages are. State laws let surrounding communities append to existing ETA's. The purpose of getting the designation would be to allow Seekonk to apply for tax incentive programs for new businesses and target certain areas, which would be good for economic development in Seekonk.

A motion was made by R. Bennett seconded by L. Dunn and it was unanimously

**VOTED: To have Town Planner write two memos to the Board of Selectmen.**

**1) Concerning the possibility of having town sewers.**

**2) Concerning Attleboro accepting Seekonk as an ETA.**

**By: Ch. Abelson, R. Bennett, L. Dunn, R. Horsman, M. Bourque, S. Foulkes, J. Ostendorf**

**Approval of Minutes:**

A motion was made by M. Bourque and seconded by R. Horsman and it was

**VOTED: (6-0-1) to accept the minutes from 9/11/12**

**By: Ch. Abelson, R. Bennett, L. Dunn, R. Horsman, M. Bourque, S. Foulkes**

**J. Ostendorf - abstained (not present for meeting)**

A motion was made by R. Horsman and seconded by R. Bennett and it was unanimously

**VOTED: To adjourn the meeting at 7:36 PM**

**By: Ch. Abelson, R. Bennett, L. Dunn, R. Horsman, M. Bourque, S. Foulkes, J. Ostendorf**

Respectfully Submitted by,

Florice Craig